



# MODESTO CITY COUNCIL

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## AGENDA

City of Modesto  
**CITY COUNCIL MEETING**  
Chambers, Basement Level  
Tenth Street Place, 1010 10th Street  
Modesto, California  
Tuesday, September 22, 2020 at 5:30 PM

\*Roll Call - Councilmembers Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

\* Some Councilmembers may be calling in. (Please Note: In order to respond to COVID-19 the City will hold this meeting via teleconference pursuant to the Governor's Executive Order N-29-20.)

### **THIS MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC**

In order to minimize the spread of the COVID-19 virus, this meeting will be conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspended certain requirements of the Brown Act, and will not be physically open to the public. You may observe a livestream of the meeting at <http://media.modestogov.com>. You may also participate in the meeting as indicated below.

### **PARTICIPATING IN CITY COUNCIL MEETINGS IN CONFORMANCE WITH GOVERNOR'S EXECUTIVE ORDER N-29-20**

The City of Modesto is providing alternatives to view Council meetings and provide public comments. If you wish to make either a general public comment or to comment on a specific agenda item, you may use one of the following options:

## **SUBMITTING COMMENTS BY E-MAIL**

Written comments may be submitted via email to: [ccmeetings@modestogov.com](mailto:ccmeetings@modestogov.com) (include Agenda Item Number in the subject line). All comments will be shared with the Councilmembers and placed in the record, but will not be read aloud during the meeting. Written comments must be received by 3:00 p.m. on the day of the meeting.

## **VIRTUAL PARTICIPATION BY ZOOM VIDEO CONFERCING AND TELEPHONE**

### **Joining the City Council meeting via Zoom**

The City of Modesto is now offering the ability to view and participate in Council meetings via telephonic conferencing via “Zoom” video conferencing computer technology. The meeting may be accessed through the use of Zoom using the following options:

- Enter the following link into an Internet Browser  
<https://us02web.zoom.us/j/86945970570>,
- Enter the following link into an Internet Browser <https://zoom.us/> and using the Webinar ID 869 4597 0570
- Password 84326

To use Zoom, please visit: <https://zoom.us/> and either sign-up for a free Zoom account or continue as a guest. Once you have downloaded the app onto your mobile device, joined from your web browser, or downloaded the Zoom software on your computer you will be ready for the upcoming Council meeting.

### **Joining the City Council meeting via Telephone**

If you don't have a smart phone or computer to access the meeting via Zoom, you can participate by phone, by calling 1-877-853-5257 (Toll Free) or 1-888-475-4499 (Toll Free) and enter the Webinar ID 869 4597 0570.

### **Providing Public Comment on Zoom and by Telephone**

The Mayor will request public comment during the Public Comment periods on the meeting agendas and during each Public Hearing and Regular Calendar Item on the Council Agenda. Once the Mayor has announced the public comment period, please do one of the following.

#### **USING A COMPUTER OR SMART PHONE APP:**

- Click on the “Raise Hand” feature in the webinar controls. This will notify City staff that you have raised your hand.
- City staff will unmute your microphone when it is your turn to provide public comment.
- A prompt will appear to confirm you would like to be unmuted and then you will have three minutes to provide public comment.
- Once your public comment has ended, you will be muted again.

USING A REGULAR PHONE (not using a computer or smart phone APP):

- Dial \*9 (star 9), this will notify City staff that you have “raised your hand” for public comment.
- City staff will unmute your microphone when it is your turn to provide public comment.
- You will hear “you are unmuted” and then you will have three minutes to provide public comment.
- Once your public comment has ended, you will be muted again.
- If your phone is unmuted, and you are unable to be heard, the host may ask that you Dial \*6 to toggle mute on/off in Zoom.

**Additional Zoom resources/support**

Please visit Zoom’s website support page on helpful tips to prepare for the meeting:

<https://support.zoom.us/hc/en-us/categories/201146643>

Pledge of Allegiance to the Flag

Invocation: Michael Douglass, Advancing Vibrant Communities

City Clerk’s Announcements

Declaration of Conflicts of Interest

Reports from Closed Session

**ACKNOWLEDGEMENTS AND PRESENTATIONS**

1. Presentation of a Proclamation proclaiming October 3, 2020 Civility Day in the City of Modesto. (Funding Source: Not Applicable)  
*CITY CLERK; Kathy Espinoza, 571-5597, kespinoza1@modestogov.com*

**PUBLIC COMMENT PERIOD**

Please refer to special public comment instructions above.

Only interested persons may present these matters. Under State law, Councilmembers may respond to matters being presented under this item only as follows:

- a. Briefly respond to statements made or questions raised.
- b. Ask a question for clarification.
- c. Provide a reference to staff or other resources for factual information.
- d. Request staff to report back at a subsequent meeting.
- e. Finally, a Councilmember or the Council itself may take action to direct staff to place a matter of business on a future agenda.

## CONSENT ITEMS – ROLL CALL VOTE REQUIRED

Information concerning the consent items listed below has been forwarded to each Councilmember prior to this meeting for study. Unless some member of the audience or Councilmember has a question concerning an item and asks that it be withdrawn from the consent list, the Council approves the items at one time. The action taken by the Council in approving consent items is set forth in the explanation of this individual item.

Any and all of the following agenda items are subject to action by the Modesto City Council.

This Agenda is on file at the Modesto-Stanislaus Library Reference Room, 1500 I Street, Modesto, in the City Clerk's Office, Sixth Floor, 10th Street Place, and is available on the City's Web site at [www.modestogov.com](http://www.modestogov.com).

In accordance with the requirements of Title II of the Americans with Disabilities Act ("ADA") of 1990, the Fair Employment & Housing Act ("FEHA"), the Rehabilitation Act of 1973 (as amended), Government Code section 11135 and other applicable codes, the City of Modesto ("City") will not discriminate against individuals on the basis of disability in the City's services, programs, or activities. For more information, please visit the City of Modesto website at <https://www.modestogov.com/865/Americans-with-Disabilities-Act-ADA>

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk (209) 577-5396. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

## CONSENT ITEMS

An item may be removed from consent and discussed at the request of an audience member or Councilmember.

Consent

2. Consider approving the minutes from the September 8, 2020 Council Meeting.  
(Funding Source: Not Applicable)

**Staff Recommendation:**

- Motion approving the minutes from the September 8, 2020 Council Meeting.  
*CITY CLERK; Stephanie Lopez, 577-5396, [slopez@modestogov.com](mailto:slopez@modestogov.com)*

Consent

3. Consider approving final adoption of Ordinance No. 3720-C.S. amending Modesto Municipal Code sections 10-3.702, 10-3.704, 10-3.707 and adding section 10-3.713 regarding regulation of cannabis deliveries, consumption of cannabis on commercial cannabis premises, and background checks of employees and operators. (Funding Source: General Fund)

**Staff Recommendation:**

- Motion approving final adoption of Ordinance No. 3720-C.S. amending Modesto Municipal Code sections 10-3.702, 10-3.704, 10-3.707 and adding section 10-3.713 regarding regulation of cannabis deliveries, consumption of cannabis on commercial cannabis premises, and background checks of employees and operators.

*CITY CLERK; Stephanie Lopez, 577-5396, slopez@modestogov.com*

Consent

4. Consider approving final adoption of Ordinance No. 3721-C.S. amending Title 8, Chapter 2, Article 6 of the Modesto Municipal Code related to Transient Occupancy Tax and the issuance and guidelines related to the newly created Transient Occupancy Tax Permit. (Funding Source: General Fund - Transient Occupancy Tax)

**Staff Recommendation:**

- Motion approving final adoption of Ordinance No. 3721-C.S. amending Title 8, Chapter 2, Article 6 of the Modesto Municipal Code related to Transient Occupancy Tax and the issuance and guidelines related to the newly created Transient Occupancy Tax Permit.

*CITY CLERK; Stephanie Lopez, 577-5396, slopez@modestogov.com*

Consent

5. Consider awarding a CARES Act Community Development Block Grant (CDBG-CV) Public Service Grant to Opportunity Stanislaus in the amount of \$100,000 for the COVID-19 VOLT Institute Program. (Funding Source: CDBG-CV Funding)

**Staff Recommendation:**

- Resolution awarding a CARES Act Community Development Block Grant (CDBG-CV) Public Service Grant to Opportunity Stanislaus in the amount of \$100,000 for eligible COVID-19 activities, and authorizing the City Manager or his designee to execute the Agreement.

*CED; Jessica Narayan, 209-577-5321, jnarayan@modestogov.com*

Consent

6. Consider approving the Final Map and Subdivision Agreement of the Villa D'Este Subdivision located in Village One east of Roselle Avenue and north of Kodiak Drive. (Funding Source: Developer Fees)

**Staff Recommendation:**

- Resolution approving the Final Map of the Villa D'Este Subdivision, authorizing the City Manager, or his designee, to execute a Subdivision Agreement with Kimberly Kuppens and authorizing the City Clerk to certify the final map and record it with the Stanislaus County Recorder's Office.

*CED; Tamorah Bryant, 577-5328, tbryant@modestogov.com*

Consent

7. Consider accepting the Public Improvements of Vintage Unit 2 Subdivision, and releasing securities upon expiration of statutory periods. (Funding Source: No City Funds)

**Staff Recommendation:**

- Resolution accepting the public improvements for Vintage Unit 2 Subdivision, located north of the Vintage Fair Mall, authorizing the City Clerk to file a Notice of Completion with the Stanislaus County Recorder's Office, and to release securities upon expiration of statutory periods.

*CED; Tamorah Bryant, 577-5328, tbryant@modestogov.com*

Consent

8. Consider approving a Will Serve Letter and Outside Service Agreement for sewer connection for the property located at 1601 Woodland Avenue in Modesto (APN: 081-029-031). (Funding Source: Sewer Fund)

**Staff Recommendation:**

- Resolution approving a Will Serve Letter and Outside Service Agreement between the City of Modesto and Yehia Ahmed Qassem Shaibi and Fatima Kassim as Trustees of the Yehia Ahmed Quassem Shaibi Family Trust, to connect to the City of Modesto's existing sewer system for the property located at 1601 Woodland Avenue (APN: 081-029-031), and authorizing the City Manager, or his designee, to sign the Will Serve Letter and execute the Outside Service Agreement.

*CED; Vickey Dion, 209.571.5542, vdion@modestogov.com*

Consent

9. Consider approving the plans and specifications for the Street Improvements Southbound McHenry Avenue to Westbound Briggsmore Avenue, CML 5059(186) project, accepting the bid, and awarding a construction contract to George Reed, Inc., of Modesto, California, in the amount of \$1,168,665; and authorizing the Director of Utilities to approve change orders up to the cumulative amount of \$116,867. (Funding Source: Congestion Mitigation and Air Quality (CMAQ), Regional Surface Transportation Program Funds (RSTP), Streets Community Facilities Fees (CFF), and Local Control Measure L Funds)

**Staff Recommendation:**

- Resolution approving the plans and specifications for the Street Improvements Southbound McHenry Avenue to Westbound Briggsmore Avenue, CML 5059(186) project, accepting the bid, and awarding the construction contract to George Reed, Inc., of Modesto, California in the amount of \$1,168,665, and authorizing the City Manager, or his designee to execute the Agreement.
- Resolution authorizing the Director of Utilities to approve change orders up to the cumulative amount of \$116,867 (10% of the original contract price) for the Street Improvements Southbound McHenry Avenue to Westbound Briggsmore Avenue, CML 5059(186) project.

*CED; Phillip Soares, 209.577.5258, psoares@modestogov.com*

Consent

10. Consider approving the results of the California Public Employees' Retirement System (CalPERS) Review of Retroactive Special Compensation Adjustments of the City of Modesto. (Funding Source: Not Applicable)

**Staff Recommendation:**

- Resolution approving the results of the California Public Employees' Retirement System (CalPERS) Review of Retroactive Special Compensation Adjustments of the City of Modesto.

*FINANCE DEPARTMENT; DeAnna Christensen, 577-5387,  
dachristensen@modestogov.com*

Consent

11. Consider accepting the Fiscal Year 2019-20 Write-off and Adjustments reports through Fiscal Year-end June 30, 2020 in the total amount of \$410,248. (Funding Source: Abatement and Public Nuisance Fund, General Fund, Solid Waste Fund, Water Fund, Storm Drain Fund, and Wastewater Fund)

**Staff Recommendation:**

- Resolution approving the 2019-2020 Write-Off and Adjustments reports through Fiscal Year end June 30, 2020 in the total amount of \$410,248 and directing a report of disposition to be filed with the City Clerk.

*FINANCE DEPARTMENT; DeAnna Christensen, 577-5387,  
dachristensen@modestogov.com*

Consent

12. Consider claiming Fiscal Year 2019-2020 unclaimed funds of \$27,798 held in the City's trust for more than three years and authorizing the transfer to the General Fund. (Funding Source: General Fund)

**Staff Recommendation:**

- Resolution claiming Fiscal Year 2019-2020 unclaimed funds of \$27,798 held in the City's Trust Fund for more than three years and authorizing the transfer to the General Fund; and authorizing the City Manager, or his designee to execute the necessary steps to implement the provisions of this Resolution.

*FINANCE DEPARTMENT; DeAnna Christensen, 577-5387,  
dachristensen@modestogov.com*

Consent

13. Consider approving a report detailing City personal property sold, donated, or disposed of during Fiscal Year 2019-20. (Funding Source: Funding Source: Airport Operating, P/R Building Services, Capital Improvement, Compost, General Fund Fleet Replacement, Storm Drain, Sewer Operations, Bus Fixed Route Max Operations, Surface Transportation, Water, Fleet Management, General Fund)

**Staff Recommendation:**

- Motion approving a report detailing all personal property sold, donated, or disposed of during Fiscal Year 2019-20.

*FINANCE DEPARTMENT; DeAnna Christensen, 577-5387,  
dachristensen@modestogov.com*

Consent

14. Consider approving the award of bid and Agreement for On-Call Boring Services for High Voltage Circuit Upgrades and other City projects throughout Modesto to MP Nexlevel of California Inc., Merced, CA for a two year Agreement with three one-year

extension options, for an estimated annual cost of \$500,000 and a total amount not to exceed \$2,500,000 over five years. (Funding Source: Surface Transportation Funds)

**Staff Recommendation:**

- Resolution approving the award of bid and Agreement for On-Call Boring Services for High Voltage Circuit Upgrades and other City projects throughout Modesto to MP Nexlevel of California Inc., Merced, CA for a two year Agreement with three one-year extension options, for an estimated annual cost of \$500,000 and a total amount not to exceed \$2,500,000 over five years; and authorizing the City Manager, or his designee to execute the Agreement.

*FINANCE DEPARTMENT; Cynthia Kline, (209) 577-5412, ckline@modestogov.com*

Consent

15. Consider accepting an informational report for the July 2020 Accounts Payable Payment Register and Void report. (Funding Source: Not Applicable)

**Staff Recommendation:**

- Motion accepting an informational report for the July 2020 Accounts Payable Payment Register and Void report.

*FINANCE DEPARTMENT; Maria Garnica, 577-5249, mgarnica@modestogov.com*

Consent

16. Consider accepting the Monthly Investment Report for July 2020. (Funding Source: Various Funds)

**Staff Recommendation:**

- Motion accepting the Monthly Investment Report for July 2020.

*FINANCE DEPARTMENT; Calogero Maniscalco, 577-5219, cmaniscalco@modestogov.com*

Consent

17. Consider approving an Agreement with SPS VAR, LLC, of Atlanta, GA., for the purchase of the IBM Power 9 Server for a one-time cost of \$99,896. (Funding Source: Water Fund, Wastewater Fund, Storm Drain Fund, and Solid Waste Fund)

**Staff Recommendation:**

- Resolution approving an Agreement with SPS VAR, LLC, of Atlanta, GA., for the purchase of the IBM Power 9 Server for a one-time cost of \$99,896 software, installation and configuration; and authorizing the City Manager, or his designee, to execute the Agreement.

*IT; Michael Bumanlag, 571-5529, mbumanlag@modestogov.com*

Consent

18. Consider authorizing a payment in the amount of \$100,000 to Belfor Property Restoration, Modesto, CA for the Dryden Golf Clubhouse Fire Renovation; and amending the Fiscal Year 2020-21 Capital Improvement budget in the amount of \$100,000 to establish a new capital project for the renovation of the Dryden Golf Clubhouse. (Funding Source: Golf Fund)

**Staff Recommendation:**



- Resolution authorizing a payment in the amount of \$100,000 to Belfor Property Restoration, Modesto, CA for the Dryden Golf Clubhouse Fire Renovation and authorizing the Purchasing Manager, or her designee, to issue the payment.
- Resolution amending the Fiscal Year 2020-2021 Capital Improvement Program Budget in the amount of \$100,000 to establish a new capital project for the renovation of the Dryden Golf Clubhouse.

*PRN; Laurie Smith, 209-577-5347, lsmith@modestogov.com*

Consent

19. Consider accepting the grant award of \$841,048 for the Low Carbon Transit Operations Program for free transit fares for specific dates and events to encourage more ridership on Modesto Area Express buses, and amending the Fiscal Year 2020-21 Operation budget in the amount of \$841,048 to increase grant revenues from the Low Carbon Transit Operations grant awarded to transit to provide free fares to passengers. (Funding Source: Low Carbon Transit Operations Program Funds)

**Staff Recommendation:**

- Resolution accepting the grant award of \$841,048 for the Low Carbon Transit Operations Program for free transit fares for specific dates and events to encourage more ridership on Modesto Area Express buses.
- Resolution amending the Fiscal Year 2020-21 Operation budget in the amount of \$841,048 to increase grant revenues from the Low Carbon Transit Operations grant awarded to transit to provide free fares to passengers.

*PUBLIC WORKS; Adam Barth, 577-5298, abarth@modestogov.com*

Consent

20. Consider accepting the Well 295 Salt Tank Platforms project as complete, authorizing all necessary steps to file with the County Recorder, releasing securities, and releasing payments totaling \$77,599 to Smith Construction Company, Inc., Fresno, CA. (Funding Source: Water Fund - CIP)

**Staff Recommendation:**

- Resolution accepting the Well 295 Salt Tank Platforms project as complete, authorizing all necessary steps to file with the County Recorder, releasing securities, and releasing payments totaling \$77,599 to Smith Construction, Inc., of Fresno, CA.

*UTILITIES; Greg Showerman, (209) 571-5860, gshowerman@modestogov.com*

Consent

21. Consider accepting the Del Rio Replacement Well 271 Project as complete, authorizing all necessary steps to file with the County Recorder, releasing securities, and releasing payments totaling \$422,767 to Nor-Cal Pump & Well Drilling, Inc., of Yuba City, CA. (Funding Source: Water Fund)

**Staff Recommendation:**

- Resolution accepting the Del Rio Replacement Well 271 Project as complete, authorizing all necessary steps to file with the County Recorder, releasing securities, and releasing payments totaling \$422,767 to Nor-Cal Pump & Well Drilling, Inc., of Yuba City, CA.

*UTILITIES; Greg Showerman, (209) 571-5860, gshowerman@modestogov.com*  
**COUNCIL COMMENTS & REPORTS**

### **CITY MANAGER COMMENTS & REPORTS**

#### **UNFINISHED BUSINESS**

22. Consider approving the annual sewer rate review and proceeding with 4% sewer rate increases to be effective January 1, 2021 for Fiscal Year 2020-21. (Funding Source: Wastewater Fund)

- Resolution approving the annual sewer rate review and approving 4% sewer rate increases to be effective January 1, 2021 for Fiscal Year 2020-21.

*UTILITIES; Jesse Franco, 571-5175, jfranco@modestogov.com*

#### **HEARINGS**

*Published in the Modesto Bee on September 11, 2020*

23. Hearing to consider approving an Ordinance amending Title 10 of the Modesto Municipal Code to amend Sections 10-3.101, 10-3.217, 10-4.102, 10-4.107, 10-4.108, 10-4.112, 10-4.114, and 10-4.115 and add Section 10-4.116 regarding accessory dwelling units, and to consider approving a Resolution adopting modified Capital Facilities Fees Policies and Procedures, and amending Resolution 2019-464. (Funding Source: General Fund)

**Staff Recommendation:**

- Motion introducing and waiving the first reading of an Ordinance amending Title 10 of the Modesto Municipal Code to amend Sections 10-3.101, 10-3.217, 10-4.102, 10-4.107, 10-4.108, 10-4.112, 10-4.114, and 10-4.115 and add Section 10-4.116 regarding accessory dwelling units.
- Resolution adopting modified Capital Facilities Fees policies and procedures, and amending Resolution 2019-464.

*CED; Cindy van Empel, 209-577-5267, cvanempel@modestogov.com*

#### **NEW BUSINESS**

24. Discussion and Possible Direction on Additional OpenAir Dining and Commercial Options Using Public Streets in the Downtown. (Funding Source: Not Applicable)

**Staff Recommendation:**

- Motion accepting direction on additional OpenAir Dining and Commercial Options Using Public Streets in the Downtown.

*CITY MANAGER; Joseph Lopez, 577-5224, joelopez@modestogov.com*

#### **MATTERS TOO LATE FOR THE AGENDA**

These may be presented by members of the City Council and staff upon determination by a majority vote that an emergency exists, as defined by State law, or by a 2/3 vote that (1) there

is a need to take immediate action, and (2) that the need for action came to the City's attention after the agenda was posted.

**ADJOURNMENT**

**CLOSED SESSION**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

(Pursuant to Section 54957 of the Government Code)

Title: City Manager

Posted pursuant to Government Code Section 54954.2 on the bulletin board at Tenth Street Place on

\_\_\_\_\_ at \_\_\_\_\_ by \_\_\_\_\_  
date time signature